



W.P.(MD).No.2353 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2025

CORAM:

**THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.(MD).No.2353 of 2020
and
W.M.P.(MD).No.3259 of 2020**

S.Lenin

... Petitioner

-VS-

1.The District Collector,
District Collectorate Campus,
Thanjavur.

2.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

3.The Local Planning Authority,
Rep. by its Member Secretary,
No.33, Rajappa Nagar,
Thanjavur - 613 007.

4.J.Chitra

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 2nd and 3rd respondents to cause a site inspection and to remove the unauthorized construction made by the



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Respondent No.4, in Ward-1, Block-25, T.S.Nos.13 and 19pt, in South Street, Thanjavur District, within the time frame stipulated by this Court.

For Petitioner : No appearance
For R-1 & R-3 : Mr.M.Sarangan
Additional Government Pleader
For R-2 : Mr.N.Dilip Kumar
For R-4 : No appearance

ORDER

[Order of the Court was made by V.LAKSHMINARAYANAN, J.]

The instant Writ Petition seeks issuance of a Writ of Mandamus, directing Thanjavur Municipal Corporation and the Local Planning Authority of Thanjavur to conduct a site inspection and to remove the unauthorized construction made by the fourth respondent in Ward No.1, Block No.25, T.S.Nos. 13 and 19 Part in South Street, Thanjavur, within a time framed stipulated by this Court.

2. The petition has been filed as one in public interest. The petitioner claims that he is a counsel practising in several Courts in and around



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Thanjavur. He states that the fourth respondent, without securing permission from the second and third respondents, had put up a spiralling superstructure. He pleads that he made a representation to the third respondent, bringing to its notice, the unauthorized construction.

3. The third respondent too seems to have issued a stop work notice pointing out to the fourth respondent that the construction put up by her is unauthorized and had also instructed her to obtain approval before proceeding further. The third respondent, five months later, had issued another notice on 07.11.2017, informing the petitioner that de-occupation notice has already been issued to the fourth respondent and that they are initiating further action. As no tangible action had been initiated by the respondents 1 to 3, the present Writ Petition has been presented to this Court.

4. Notice was ordered to the respondents in this Writ Petition. Though the fourth respondent has been served with notice, she has neither entered appearance nor is she present in person to oppose the Writ Petition.

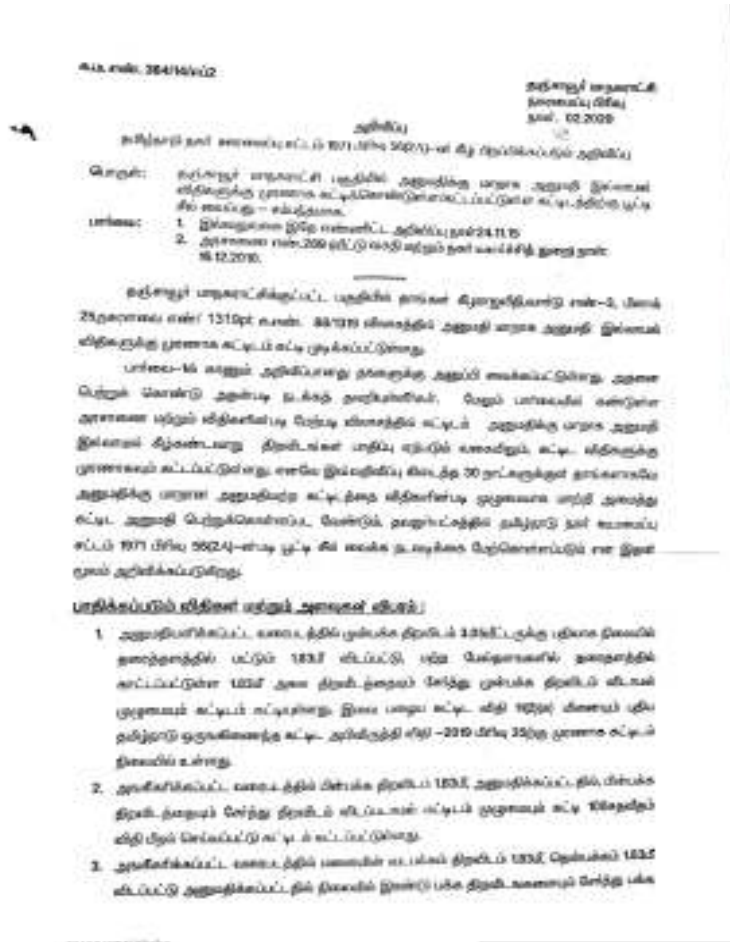
5. We heard Mr.N.Dilip Kumar for the second respondent and Mr.M.Sarangan, learned Additional Government Pleader for the respondents 1 and 3.



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6. Mr.Dilip Kumar has produced the proceedings of the second respondent dated 18.02.2020, which is extracted hereunder:



7. A perusal of the order shows that the fourth respondent had secured permission to put up ground and first floor to an extent of 48.89 Sq.m.



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9. Apart from this, Mr.M.Sarangan shows that notice had been served even during the course of construction by Thanjavur Local Planning Authority, pointing out that minimum side setback space required for the movement of fire tenders had not been given and invoking Sections 56 and 57 of the Town and Country Planning Act, 1971, a direction had been given to the fourth respondent to restore the land and building strictly in accordance to the permission that had been granted to the fourth respondent.

10. The narration of the aforesaid facts goes to show that the entire building that has been put up by the fourth respondent is an unauthorized one. The third respondent seems to have not taken any action on account of the suit in O.S.No.70 of 2020 pending on the file of the District Munsif Court, Thanjavur.

11. It has been settled by a judgment of a Division Bench of this Court in ***Consumer Action Group Vs. State of Tamil Nadu and others, (2006) 4 CTC 483***, no Civil Court can entertain a suit when action has been initiated pursuant to Sections 56 and 57 of the Town and Country Planning Act, 1971. Furthermore, we fail to understand as to how the State respondents have been keeping quiet when there is no interim order preventing them from



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proceeding further with the notices that have been issued for stop work, de-occupation as well as demolition.

12. Though the fourth respondent has been served with notice, she is not present today. Moreover, the fourth respondent has not been responding to the notices issued by the second respondent as well as the third respondent. Therefore, we have no option, but to allow the Writ Petition and direct the third respondent to demolish the entire unauthorized structure within a period of 72 hours of the order being uploaded. The senior Inspector of the jurisdictional Police Station shall extend all co-operation and deploy such number of police personnel as required to ensure that law and order is not disturbed and traffic is not disrupted. None of the authorities shall be influenced by any telephone call or pressure, if attempted to dissuade them from complying with the order passed by this Court.

13. In view of the concerned officer of the third respondent, sleeping over the matter from 2018 onwards, the District Collector/first respondent is directed to conduct an enquiry, identify the erring officials and initiate disciplinary action against those officials. The authorities of TANGEDCO shall forthwith disconnect the electricity connection to the building so as to enable the



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third respondent to implement this order within the time frame granted by this Court.

14. As regards the suit that is pending before the District Munsif Court, Thanjavur, Mr.Dilip Kumar states that an application taken on by the Corporation, for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure, has been pending for almost five years.

15. In view thereof, the District Munsif Court, Thanjavur is directed to take up the application and dispose of the same within a period of eight (8) weeks from today.

16. Mr.Dilip Kumar states that a copy of this order may be marked to the District Munsif Court, Thanjavur. Registry is directed to mark a copy of this order to the District Munsif Court, Thanjavur within a period of three (3) working days of the order being uploaded.

17. In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, interim application stands closed.



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[K.R.SHRIRAM., C.J.]

[V.LAKSHMINARAYANAN, J.]

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NCC : Yes / No

Index : Yes / No

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Copy to:

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THE HON'BLE CHIEF JUSTICE
and
V.LAKSHMINARAYANAN, J.

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